

CITY COUNCIL AGENDA

OCTOBER 21, 2003

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
TERRY O. GREGORY
DAVID D. CORTESE
JUDY CHIRCO
PAT DANDO, VICE MAYOR

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.htm

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**

9:07 a.m. - Closed Session, Room 600, City Hall
Absent Council Members: Dando, Williams. (Excused)

1:36 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: Dando. (Excused)

7:03 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: Dando. (Excused)

- **Invocation (District 9)**

The youth choir from Leigh High School, the “Madrigals”, directed by Stan Neff, performed a song.

- **Pledge of Allegiance**

Mayor Gonzales led the Pledge of Allegiance.

- **Orders of the Day**

The Orders of the Day and the Amended Agenda were approved.

1 CEREMONIAL ITEMS

- 1.1** Presentation of a commendation to the MACSA Youth Center Eagle Warrior Athletics 19 and Under, 16 and Under, 14 and Under, 12 and Under, 12 and Under Girls, and 10 and Under Futsal Teams. Each of these teams placed at least third, including some National Championships at the 2003 National Futsal Championships in Anaheim, CA. (Campos) (Deferred from 9/16/03 – Item 1.1 and 10/7/03 – Item 1.1) **Heard in the evening.** Mayor Gonzales was joined at the podium by Council Member Campos to present commendations to the MACSA Youth Center Eagle Warrior Athletics for several age categories. Council Member Campos introduced Mario Gonzalez, coach for the teams. The youngsters of MASCA Youth Center won first and second place in the State, and won three National championships in the sport of Futsal (indoor soccer). Mayor Gonzales, and Council Member Campos, on behalf of the Council Members recognized and commended the players, the coach and the families of the MACSA Youth Center Eagle Warrior Athletic Teams for their outstanding achievements.

1 CEREMONIAL ITEMS

- 1.2** Swearing in of Youth Commissioners for Districts 1, 3, 5, 7, and 9. (Mayor)

Heard in the evening.

Council Member LeZotte introduced Christina Liu, a Sophomore at Lynbrook High School, who is studying Chinese at De Anza College, has performed over 350 hours of community service through Girl Scouts, and Young City Heroes; she has restored habitats, worked in soup kitchens, removed graffiti, and painted murals at low income schools. Council Member Chavez introduced Adan Lupercio, a member of the Washington United Youth Center Advisory Council, a Washington Youth Volunteer Group Member, a Washington Area Community Coalition Member, has had 4 years of involvement with his neighborhood, and started “Teens Engaged to Enhance Neighborhood Services.” Council Member Campos introduced Carlota Montes, a Senior Honor Student at Mt. Pleasant High School, who is the President of the Latinos Student Union, representative of the East Side Union District, and is editor of her school newspaper. Council Member Gregory introduced Erica Garcia, who is currently the Chair of the current Youth Commission, serving for the past 4 years; she is committed to ensuring that young people have a voice in San José . Council Member Chirco introduced Megan Riley, a Sophomore at Branham High School, who is active in the Octagon Club, Second Harvest Food Bank, Sacred Heart, Adopt a Creek, and Key Club, and she feels the Youth Commissioner’s job is to inform the community and focus on youth involvement. City Clerk Patricia L. O’Hearn swore in each of the nominees.

- 1.3** Presentation of a commendation to the Avitia Family for being the Hispanic Foundation of Silicon Valley 2003 La Familia Award winner. (Reed/Mayor)

Heard in the evening.

Mayor Gonzales was joined at the podium by Council Member Reed to commend the Avitia family for receiving the prestigious La Familia Award. Mayor Gonzales explained that an annual event, the Hispanic Charity Ball, is the opportunity to bring the Hispanic and Non-Hispanic community together to raise money for a variety of good community causes and organizations, and during that dinner, a family is recognized that best exemplifies outstanding community work. Mayor Gonzales, and Council Member Reed, on behalf of the Council Members recognized and commended Consuelo and Carlos Avitia, and their daughters Sonia and Cindy, for their outstanding personal, and professional contributions to improve the quality of life for the children, and the families of the San José community. Consuelo Avitia, a member of the City Clerk’s Office, accepted the commendation from Mayor Gonzales.

1 CEREMONIAL ITEMS

- 1.4 Presentation of a commendation to teacher Larry Statler for his innovation in creating the Discovery Program, a successful collaboration between special and general education; and for his induction into the prestigious National Teachers Hall of Fame. (Williams)
Heard in the evening.
Mayor Gonzales was joined at the podium by Council Member Williams to commend and recognize Larry Statler for his contributions to the community spanning over 30 years. Mr. Statler's specialty is special education, and he is outstanding in his profession. He has been inducted in the National Teacher's Hall of Fame, which includes only 35 individuals nationally. Council Member Williams stated he had the opportunity to visit Mr. Statler's classroom, to observe how Mr. Statler and the general education teachers work together, and how the children benefit from that collaboration. Mayor Gonzales, and Council Member Williams, on behalf of the Council members, recognized and commended Mr. Larry Statler for his exemplary dedication to the young people of San José, his leadership in classroom innovation, and his distinction at the forefront of educators in America.
- 1.5 Presentation of a commendation to Services for Brain Injury (SBI) in recognition of Brain Injury Month; for the past fourteen years, SBI has tirelessly worked to assist their clients and their families with services to help them regain maximum independence and to improve their quality of life. (Dando)
(Rules Committee referral 10/15/03)
Deferred to 10/28/03.

2 CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
There were none.
- 2.2 **Final adoption of ordinances.**
- (a) ORD. NO. 26994 – Amends Title 22 of the San José Municipal Code to authorize the Director of the Department of Convention, Arts and Entertainment to provide flexible pricing of the Convention and Cultural facilities.
Ordinance No. 26994 was adopted.
- (b) ORD. NO. 26996 – Amends Chapter 13.36 of Title 13 and Chapter 15.50 of Title 15 of the San José Municipal Code to require Construction Impact Mitigation Plans for Major Construction Projects in the public right-of-way.
Ordinance No. 26996 was adopted.

2 CONSENT CALENDAR

2.3 Approval to amend the 2003-2004 Schedule of Fees and Charges.

Recommendation: Adoption of a resolution amending the 2003-2004 Schedule of Fees and Charges for the Police Department to reflect updated costs related to Card Table Fees. CEQA: Not a Project. (City Manager's Office)

Resolution No. 71786 adopted.

2.4 Acceptance of a report and approval to reject the sole proposal received for a Case Management System.

Recommendation: Report on Request for Proposal and approval to reject the sole proposal received for a Criminal Investigation Case Management System (CICMS). CEQA: Not a Project. (General Services/Police)

Report accepted, and rejection of the proposal received for a Criminal Investigation Management System was approved.

2.5 Approval of Independent Police Auditor, Teresa Guerrero-Daley's travel out of the country.

Recommendation: Approval of Independent Police Auditor, Teresa Guerrero-Daley's travel to Mexico City, Mexico, October 28-31, 2003, to attend the International Seminar on Police Accountability. Funding: National Institute for Penal Sciences. (Independent Police Auditor)

Approved.

2.6 Approval of action related to grant funding for the Coyote Creek Trail/Selma Olinder Park Project.

Recommendation: Adoption of a resolution to provide five certifications required by the State Resources Agency for grant funding associated with the Coyote Creek Trail/Selma Olinder Park Project. CEQA: Mitigated Negative Declaration, PP00-10147. Council District 3. SNI Area University, Five Wounds, Brookwood Terrace. (Parks, Recreation and Neighborhood Services)

Resolution No. 71787 adopted.

2 CONSENT CALENDAR

2.7 Approval of various fiscal actions related to Federal Weed and Seed Grant Funds.

Recommendation:

- (a) Adoption of the following appropriation ordinance and funding sources resolution amendments in the General Fund:
- (1) Increase the revenue estimate for Revenue from the Federal Government by \$223,384;
 - (2) Increase the City-wide appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$173,384; and
 - (3) Increase the City-wide appropriation to the Police Department in the amount of \$50,000.

Ordinance No. 26998 adopted.

Resolution No. 71788 adopted.

- (b) Reauthorize the following existing positions for the term of the grant: 1.0 FTE Full-time Community Activity Worker and 0.5 FTE Part-time D-benefited Staff Analyst.

CEQA: Not a Project. Council District 3. SNI Area: Washington. (Parks, Recreation and Neighborhood Services)

Approved.

2.8 Approval of various actions related to the annexation of property designated as Franklin No. 51.

Recommendation: Adoption of a resolution initiating proceedings and setting November 18, 2003 at 1:30 p.m. as the date for Council consideration of the reorganization of territory designated as Franklin No. 51, which involves the annexation to the City of San José of 0.503 acre of land, located on the southeastern corner of Garden Avenue and Southside Drive, generally bounded by the City of San José Annexation Franklin 28, and the detachment of the same from the Central Fire Protection, County Library Service Area, County Sanitation 2-3, and the County Lighting Service. CEQA: Resolution No. 71359. Council District 7. (Planning, Building and Code Enforcement)

Resolution No. 71789 adopted.

2.9 Approval of an agreement related to reimbursements for a training program for peace officers.

Recommendation: Approval of the agreement with the Commission on Peace Officer Standards and Training (POST) related to components of the previously approved POST -reimbursed training program for Peace Officers in Santa Clara County in the amount of \$138,000, for the term of July 1, 2003 to June 30, 2004. CEQA: Not a Project. (Police)

Approved.

2 CONSENT CALENDAR

2.10 Approval to award a contract for the William H. Cilker Park Project.

Recommendation: Report on bids and award of contract for William H. Cilker Park Project to the low bidder, Robert A. Bothman, Inc., for the base bid in an amount of \$305,305, and approval of a contingency in the amount of \$30,000. CEQA: Mitigated Negative Declaration, PP03-03-092. Council District 9. (Public Works/Parks, Recreation and Neighborhood Services)

Approved.

2.11 Approval to amend an agreement for the Skyport Drive Grade Separation Project.

Recommendation: Approval of the second amendment to the agreement with Biggs Cardosa Associates, Inc. for the Norman Y. Mineta San José International Airport - Skyport Drive Grade Separation Project, increasing the compensation by \$393,390, from \$2,200,000 to \$2,593,390, and extending the term from June 30, 2004 to December 31, 2004. CEQA: Resolution No. 67380, PP 02-07-191. (Public Works)

Approved.

2.12 Adoption of a resolution authorizing the reorganization of property designated as Berryessa No. 67.

Recommendation: Adoption of a resolution authorizing the reorganization of territory designated as Berryessa No. 67, which involves the annexation to the City of San José of 6.72 acres of land, located on the west side of King Road, approximately 250 feet southerly of Commodore Drive and generally bounded by the City of San José Annexations Berryessa No. 49, Berryessa No. 41, Berryessa No. 66, Penitencia No. 66, and Berryessa No. 52, and the detachment of the same from the appropriate special districts including: Central Fire Protection and the County Service Area No. 01 (County Library Services Area). CEQA: Mitigated Negative Declaration, PDC02-104. Council District 4. (Planning, Building and Code Enforcement)
(Deferred from 10/14/03 – Item 2.4)

Resolution No. 71790 adopted.

2 CONSENT CALENDAR

2.13 Adoption of a resolution authorizing the reorganization of property designated as McKee No. 122.

Recommendation: Adoption of a resolution authorizing the reorganization of territory designated as McKee No. 122 which involves the annexation to the City of San José of 3.33 acres of land, including the abutting portion of right-of-way between Cedarville Lane and North Capitol Avenue, located on the southeast corner of Capitol Avenue and Baton Rouge Drive and generally bounded by the City of San José Annexations McKee No. 78-A and McKee No. 97, and the detachment of the same from the appropriate special districts including: Central Fire Protection and the County Service Area No. 1 (County Library Services Area). CEQA: Mitigated Negative Declaration, PDC03-034. Council District 4. (Planning, Building and Code Enforcement) (Deferred from 10/14/03 – Item 2.5)

Resolution No. 71791 adopted.

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

No Report.

3.2 Report of the Rules Committee - Meeting of October 8, 2003

Vice Mayor Dando, Chair

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review October 21, 2003 Draft Agenda

The Committee recommended approval of the October 21, 2003 City Council agenda with five additions.

(2) Add New Items to October 14, 2003 Amended Agenda

The Committee recommended five additions to the October 14, 2003 City Council agenda.

- Mayor and Council Member Requests
- City Manager Requests
- City Attorney Requests
- City Clerk Requests

(3) List of Reports Outstanding

The Committee noted and filed the City Manager's report listing one staff report outstanding for the October 14, 2003 Council agenda.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee - Meeting of October 8, 2003 (Cont'd.)

Vice Mayor Dando, Chair

- (c) Legislative Update
 - (1) State
There was no report.
 - (2) Federal
There was no report.
- (d) Meeting Schedules
 - (1) Adopt Proposed 2004-2005 City Budget Calendar
The Committee directed the Administration to develop a more meaningful partnership with employees/employee unions and with community groups during the budget process, and to specifically include employees on the flow chart for the Annual Budget Process (Attachment A to Mr. Lisenbee's memorandum submitted as a document filed for this item); the Committee recommended adoption of the proposed 2004-2005 City Budget Calendar.
- (e) The Public Record
The Committee noted and filed the Public Record.
- (f) Appointment to Boards, Commissions and Committees
There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals
There were none.
- (h) Oral communications
None were presented.
- (i) Adjournment
The meeting adjourned at 2:25 p.m.

The Report of the Rules Committee and the Actions of October 8, 2003 were accepted.

- (f) Appointment to Boards, Commissions and Committees
 - (1) Request to waive Council Policy regarding appointment to Youth Commission
See Item 3.8 for Council action taken.
The Committee recommended an exception to Council Policy 0-4, Page B1, which states, "...no City Staff Member or Council Assistant shall be appointed to any City Board or Commission", to allow reappointment of District 7 Youth Commissioner, Erica Garcia, who is employed part-time as a LEARNS after-school site coordinator.

3 STRATEGIC SUPPORT SERVICES

3.3 Report of the Making Government Work Better Committee – October 8, 2003 Council Member Campos, Chair

- (a) Follow-up on Review of Effectiveness of Current City and Redevelopment Agency Community Outreach and Accessibility
The Committee accepted the Staff report, and requested that Staff return with an update on the Citywide Public Outreach Policy at the end of the fiscal year.
- (b) IT Major Projects Update
The Committee accepted the Staff report.
- (c) Auditor's Recommendations Follow-up report for Six Months Ended June 30, 2003
The Committee accepted the Staff report.
- (d) City Clerk One-Stop Shop follow-up report
The Committee deferred this item to the November 12, 2003, Making Government Work Better Committee.
- (e) Comprehensive Annual Financial Report
See Item 3.7 for Council action taken.
The Committee accepted the Staff report.
- (f) School Crossing Guard Program Audit Report
The Committee accepted the Staff report, with the direction that the Auditor includes an analysis of the current criteria for intersections qualifying for crossing guards.
- (g) Oral petitions
There were none.
- (h) Adjournment
The meeting was adjourned at 5:10 p.m.

The Report of the Making Government Work Better Committee, and the Actions of October 8, 2003 were accepted.

3.4 Adoption of a resolution calling for a Municipal Election.

Recommendation: Adoption of a resolution calling for a Municipal Election to be held on March 2, 2004, for the purpose of electing a Council Member from Districts 2, 4, 6, 8, and 10, each for a full term beginning January 1, 2005 and ending December 31, 2008.

(City Clerk)

Resolution No. 71792 adopted.

3 STRATEGIC SUPPORT SERVICES

3.5 Approval of action related to the Hayes Mansion Conference Center.

Recommendation: Adoption of a resolution authorizing the City Manager to enter into exclusive negotiations for thirty (30) days with the proposed new manager for the Hayes Mansion, Dolce International Holdings, Inc. (“Dolce”) with the option to commence negotiations with Benchmark Hospitality in the event business terms are not reached with Dolce. CEQA: Not a Project. (City Manager’s Office/Finance/Economic Development) (Deferred from 10/14/03 – Item 3.5)

Heard concurrently with 3.6.

Resolution No. 71793 adopted. Noes: Reed.

Staff directed to:

- (1) Make incentives for retirement of the short term debt a focal point of negotiations;**
- (2) Incorporate an Environmentally Preferable Procurement Policy (EPP) into the contract;**
- (3) Ensure any draw downs on the revolving line of credit that have been established, be reported by monthly statements to each Council Office in order to monitor the status of the balance of the line of credit.**

3.6 Approval of various actions related to a transition plan for the Hayes Mansion Conference Center.

Heard concurrently with 3.5. See Item 3.5 for Staff direction.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement by and among the City, Hayes Renaissance, L.P. and Network Conference Company setting forth the terms of the transition of the operation and management of the Hayes Mansion Conference Center to a new operator.**

Resolution No. 71794 adopted. Noes: Reed.

- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute agreements related to the transition of the operation and management of the Hayes Mansion Conference Center:**

- (1) A line of credit agreement in an amount not to exceed \$5 million and a term loan in an amount not to exceed \$2 million with Comerica Bank-California.**
- (2) An agreement with Devcon Construction Incorporated to assume repayment of the principal of a loan made to Hayes Renaissance, L.P. in the amount of \$1.2 million on a subordinated basis from Hayes Mansion Conference Center net revenues; and**
- (3) A temporary operating agreement with Hayes Renaissance, L.P. for the operation and management of the Hayes Mansion Conference Center until the new operator assumes management and at a cost not to exceed a monthly fee of \$15,000.**

Resolution No. 71795 adopted. Noes: Reed.

Item continued on the next page.

3 STRATEGIC SUPPORT SERVICES

3.7 Approval of various actions related to a transition plan for the Hayes Mansion Conference Center (Cont'd.)

(c) Adoption of amendments to the 2003-2004 appropriation ordinance in the General Funds as follows:

- (1) Establish a Hayes Mansion Conference Center Line of Credit Security Earmarked Reserve in the amount of \$5,000,000; and
- (2) Decrease the Worker's Compensation/General Liability Catastrophic Earmarked Reserve in the amount of \$5,000,000.

CEQA: Not a project. (City Manager's Office/Finance/Economic Development
(Deferred from 10/14/03 – Item 3.6)

Ordinance No. 26999 adopted. Noes: Reed.

3.8 Acceptance of the Comprehensive Annual Financial Report.

Recommendation: Acceptance of the Comprehensive Annual Financial Report. (Finance)
[Making Government Work Better referral 10/8/03 – Item 3.3(e)]

Report Accepted.

3.9 Request for policy waiver on Youth Commission appointment.

Recommendation: Adoption of a resolution excepting District 7 Youth Commissioner Erica Garcia from City Council policy #0-4(B).

[Rules Committee referral 10/15/03 – Item 3.2(f)(1)]

Resolution No. 71796 adopted.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee Council Member Chavez, Chair

No Report.

4.2 Report of the Driving a Strong Economy Committee Council Member Williams, Chair

No Report.

4.3 Approval of an agreement for the development of the Sycamore Terrace Project.

Recommendation: Approval of a Disposition and Development Agreement (DDA) between the City of San José and Barry Swenson Builder (BSB), or its designated affiliate, for the development of the Sycamore Terrace Development, a 32-unit family development on 1.42 acres of City-owned property, located at the northeast corner of Almaden Expressway and Coleman Road. CEQA: Mitigated Negative Declaration, PDC 90-061. Council District 10. (Housing)

Approved.

5 RECREATION & CULTURAL SERVICES

5.1 Report of the All Children Achieve Committee – October 9, 2003 Council Member Yeager, Chair

- (a) Youth Commission Report
The Committee accepted the report.
- (b) Presentation of the FY 03-04 Youth Commission Workplan
The Committee accepted the report.
- (c) Early Childcare Update on Integration of Quality Standards
The Committee accepted the report.
- (d) Oral petitions
There were none.
- (e) Adjournment
The meeting was adjourned at 2:15 p.m.

The Report of the All Children Achieve Committee and the Actions of October 9, 2003 were accepted.

5.2 Approval of the Fowler Creek Park Master Plan Update.

Recommendation: Approval of the Fowler Creek Park Master Plan Update. CEQA: Resolution No. 63179, PP03-09-288. Council District 8. (Parks, Recreation & Neighborhood Services)
Approved.

6 TRANSPORTATION SERVICES

6.1 Report of the Building Better Transportation Committee – October 6, 2003 Council Member Cortese, Chair

- (a) Expansion and Improvement of Transit and Transportation Systems
 - (1) Status Report on the Bay Area Rapid Transit (BART) Project
The Committee approved the report, with direction to provide a brief update at the October 21, 2003 Council Meeting.
- (b) Traffic Relief/Safe Streets
 - (1) No items
- (c) Supporting Smart Growth
 - (1) Presentation on the cumulative Land Use/Transportation General Plan changes
The Committee accepted the report.

6 TRANSPORTATION SERVICES

6.1 Report of the Building Better Transportation Committee – October 6, 2003 Council Member Cortese, Chair (Cont'd.)

- (d) Regional Relationships/Funding/Policy
 - (1) Update on State, Federal, and Local Legislative
The Committee accepted the report.
 - (2) Update on the Santa Clara Valley Transportation Agency (VTA), Valley Transportation Plan (VTP) 2030 Roadways
See Item 6.2 for Council action taken.
The Committee accepted the report, with direction to “cross reference” this item for full Council action on October 21, 2003, and for the Council Members to forward any additional comments to the Director of the Department of Transportation.
- (e) Oral petitions
There were none.
- (f) Adjournment
The meeting was adjourned at 3:05 p.m.

The Report of the Building Better Transportation Committee and the Actions of October 6, 2003 were accepted.

6.2 Accept staff’s report regarding the VTP 2030.

Recommendation: Acceptance of staff’s report on the review of eligible Freeway, Expressways and Intelligent Transportation Systems (ITS) Projects for Valley Transportation Plan 2030. (Transportation)
[Building Better Transportation Committee referral 10/6/03 – Item 6.1(d)(2)]
Report Accepted.

6.3 Public Hearing and approval of a freeway agreement with the State of California.

Recommendation:

- (a) PUBLIC HEARING on the approval of a freeway agreement with the State of California.
- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute the freeway agreement with the State of California’s Department of Transportation for the Route 880 at Coleman Avenue Interchange Project.
CEQA: Resolution No. 71448, PP03-02-071. Council District 3. (Transportation)
Heard in the evening.
Resolution No. 71799 adopted.

7 ENVIRONMENTAL & UTILITY SERVICES

7.1 Approval to amend an agreement with the City of Santa Clara.

Recommendation: Approval of the fourth amendment to the Agreement for Engineering, Construction, and Construction Services by and between City of Santa Clara and the City of San José for implementation of portions of the South Bay Water Recycling Program, increasing the amount of compensation by \$2,700,000, for a total agreement amount not to exceed \$27,600,000, with an option to increase the agreement amount to \$30,000,000 subject to appropriation of funds, for recycled water projects within the City of Santa Clara. CEQA: Resolution No. 64667 (PP# 91-04-090) and Addenda Numbers 6, 7, 9, and 10 adopted by the Santa Clara City Council. (Environmental Services)

Approved.

8 AVIATION SERVICES

8.1 Approval of an ordinance amending and restating the curfew hours and aircraft restrictions provisions of the City of San José Airport Noise Control Program.

Recommendation:

- (a) Adoption of an urgency ordinance amending Title 25 of the San José Municipal Code by adding a new Chapter 25.03 to amend and restate the curfew hours and aircraft restrictions provisions of the City Of San José Airport Noise Control Program, and adoption of an urgency ordinance amending Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code to designate violations of Chapter 25.03 as infractions.

Ordinance Nos. 27000 and 27001 adopted.

- (b) Adoption of a resolution amending Resolution No. 57211 to amend and restate the curfew hours and aircraft restrictions provisions of the City Of San José Airport Noise Control Program.

(City Attorney's Office)

Resolution No. 71797 adopted.

Staff directed to:

- (1) Re-assess the customer airport noise complaint feedback line in order to make it more user friendly;**
- (2) Report back in a year as to the overall effect of the new curfew;**
- (3) Work with the new airlines interested in signing new contracts with the City of San José, and ask if the airline would voluntarily comply with the curfew hours from 11:30 p.m. to 6:30 am.**

9 PUBLIC SAFETY SERVICES

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

- Closed Session Report

None.

- Notice of City Engineer's Pending Decision on Final Maps

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

None.

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9481	N/S of Aborn Ave., E/S of Murillo Ave.	8	Citation Homes	15 units	SFDR

- Open Forum

- (1) **Katarina Dunmar asked how a citizen places an item on the Council Agenda.**
- (2) **Ross Signorino stated the City of San José is the healthiest and greatest City in the United States.**
- (3) **Xavier Campos thanked the Mayor and City Council for their support of San José Best.**

The Council of the City of San José adjourned at 3:49 p.m.

11 PUBLIC HEARINGS

(Heard by the City Council at 7:03 p.m.)

11.1 Public Hearing and approval of an ordinance modifying Downtown Zoning Regulations.

Recommendation: PUBLIC HEARING on approval of an ordinance amending Chapter 20.70 of Title 20 of the San José Municipal Code by modifying the provisions of the Downtown Zoning Regulations. CEQA: Resolution No. 65459, PP03-05-169. (Planning, Building, and Code Enforcement)

(Continued from 6/3/03 – Item 11.3 et al., and 9/30/03 – Item 11.1)

Continued to 11/18/03.

11.2 Public Hearing on appeal of the Planning Commission's decision to deny a Conditional Use Permit and ABC Exception.

Recommendation: PUBLIC HEARING ON APPEAL of the Planning Commission's decision to deny a Conditional Use Permit and ABC Exception for a project located on the east side of North Capitol Avenue, approximately 1,200 feet northerly of McKee Road, on a 8.39 gross acre site in the CG Commercial Zoning District. The proposed project is the off-sale of alcohol at an existing Target Retail Store. (Target Corporation, Owner/Developer). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends overturning the decision of the Planning Commission to deny. CP 03-002 & ABC 03-002 - District 5

(Continued from 6/17/03 – Item 11.2 and 8/19/03 – Item 11.2)

Appeal Denied. Resolution No. 71800 adopted.

Staff directed to look into the issue of additional noticing and additional public involvement to address the basic question of the State of California Alcohol Beverage Control (ABC) process on Conditional Use Permits (CUP) involving public convenience and necessity, for future CUP applications.

11.3 Public Hearing on appeal of the Planning Commission's decision to approve a Conditional Use Permit.

Recommendation: PUBLIC HEARING ON APPEAL of the Planning Commission's decision to approve, with standard and special conditions, a Conditional Use Permit to allow an addition to an existing public utility facility (San José Water Company) located on the northwest corner of San Tomas Expressway and Williams Road in the R-1-8 Residence Zoning District on a 17 acre site. The proposed addition consists of two settling ponds and three storage bins for temporary storage of excavated soil, asphalt, concrete, and base rock. (San José Water Company, Owner/Developer). CEQA: Exempt, CP03-009. Director of Planning, Building and Code Enforcement recommends upholding the decision of the Planning Commission to approve.

CP 03-009 - District 1

(Continued from 6/17/03 – Item 11.3 et al., and 9/30/03 – Item 11.2)

Continued to 11/04/03.

11 PUBLIC HEARINGS

11.4 Public Hearing on planned development rezoning of the property located at 1175 Hillsdale Avenue.

Recommendation: PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the northwest corner of Hillsdale Avenue and Almaden Expressway (1175 Hillsdale Avenue), from CO Commercial Office and R-1-8 Residence Zoning Districts to A(PD) Planned Development Zoning District to allow (1) renovation of an existing two-story, 12, 250 square foot classroom building for private instruction and dormitory uses for approximately 75 students at an existing church, (2) replacement of an existing 176 space surface parking lot at the corner of Foxworthy Avenue and Almaden Expressway with a ball field and a 1,200 square foot modular building (no on-site outdoor lighting or PA system), and (3) addition of new landscaped areas and other minor site plan changes on a 10.4 acre site. (Calvary Chapel of San José, Owner/Developer). CEQA: Exempt. Director of Planning, Building, and Code Enforcement and Planning Commission recommend approval (7-0-0).

PDC 03-027 - District 9

(Continued from 9/16/03 – Item 11.5)

Continued to 11/4/03.

11.5 Public hearing on conforming prezoning of the property located at 105 Wabash Avenue.

Recommendation: PUBLIC HEARING ON CONFORMING PREZONING of the property located at the east side of Wabash Avenue, approximately 80 feet northerly of Olive Street (105 Wabash Avenue), from County to R-1-8 Residential Zoning District to allow residential uses on a 0.13 gross acre site. (Joe Y Na, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). SNI: Burbank/Del Monte.

C 03-065 - District 6

Ordinance No. 27002 was passed for publication.

11.6 Public hearing on planned development rezoning of the property located at 1023 Bird Avenue.

Recommendation: PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the east side of Bird Avenue, approximately 490 feet northeasterly of Snyder Avenue (1023 Bird Avenue), from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District, to allow a 530 square foot, half-story living area in an existing accessory structure in conjunction with an existing single-family residence on a 0.15 gross acre site. (Stanley M. Davis et al. Owner/Developer). CEQA: Exempt.

PDC 03-060 - District 6

Continued to 11/18/03.

11 PUBLIC HEARINGS

11.7 Public hearing on conforming rezoning of the property located at 1025 E. Capitol Expressway.

Recommendation: PUBLIC HEARING ON CONFORMING REZONING of the property located at the northwest corner of East Capitol Expressway and McLaughlin Avenue (1025 E. Capitol Expressway), from A(PD) Planned Development Zoning District to CN Neighborhood Commercial Zoning District, to allow commercial uses on a 15.47 gross acre site. Kenneth T. Namimatsu et al., Owner). CEQA: Resolution No. 65459, C03-074. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C 03-074 - District 7

Ordinance No. 27003 was passed for publication.

11.8 Public hearing on planned development rezoning of the property located at 250 E. Virginia Street.

Recommendation: PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the southeast corner of East Virginia Street and South 5th Street (250 E. Virginia Street), from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 170 single-family attached residences with underground parking on a 3.9 gross acre site. (250 E. Virginia, LLC, Owner). CEQA: Mitigated Negative Declaration. SNI: Spartan/Keyes.
PDC 03-022- District 3

Continued to 11/04/03.

11.9 Public hearing on Director-initiated conventional rezoning of the property located within the area generally bounded 4th Street, Interstate 280, State Route 87 (Guadalupe Parkway), and Bassett Street.

Recommendation: PUBLIC HEARING ON DIRECTOR-INITIATED CONVENTIONAL REZONING of the property located within the area generally bounded 4th Street, Interstate 280, State Route 87 (Guadalupe Parkway), and Bassett Street, from CG General Commercial, R-M Multiple Residence, R-2 Two-Family Residence, LI Light Industrial Districts to DC Downtown Commercial District and DC-NT 1 Downtown Commercial-Neighborhood Transition 1 Districts, to allow mixed use, commercial, and residential uses on approximately 389 gross acres. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2). (Planning, Building, and Code Enforcement)
C 03-072 - District 3

Continued to 11/18/03.

11 PUBLIC HEARINGS

11.10 Public hearing on conforming rezoning of the property located at 1022 W. Taylor Street.

Recommendation: PUBLIC HEARING ON CONFORMING REZONING of the property located at the south side of Taylor Street, approximately 70 feet westerly of Myrtle Street (1022 W. Taylor Street), from R-2 Two-Family Residence District to CO Office Commercial Zoning District, to allow commercial uses on a 0.11 gross acre site. (Evelyn Sineneng Smith, Owner). CEQA: Resolution No. 65459, C03-077. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C 03-077 - District 6

Ordinance No. 27004 was passed for publication.

11.11 Public hearing on planned development rezoning of the property located at 2486 Ruby Avenue.

Recommendation: PUBLIC HEARING ON PLANNED DEVELOPMENT PREZONING of the property located at the east side of Ruby Avenue, approximately 250 feet northerly of Murillo Avenue (2486 Ruby Avenue), from County to A(PD) Planned Development Zoning District, to allow up to 27,900 square feet of church/community center use on a 2.09 gross acre site. (South Bay Islamic Assn. Inc., Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC 02-047 - District 8

Ordinance No.27006 was passed for publication.

11.12 Public hearing on conforming rezoning of the property located at 2955 Senter Road.

Recommendation: PUBLIC HEARING ON CONFORMING REZONING of the property located on the west side of Senter Road, approximately 100 feet northwesterly of Pocatello Drive (2955 Senter Road), from CP Pedestrian Commercial Zoning District to CN Neighborhood Commercial Zoning District, to allow commercial uses on a 0.4 gross acre site. (Hung Nguyen, Owner). CEQA: Resolution No. 65459, C03-067. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C 03-067 - District 7

Ordinance No. 27005 was passed for publication.

- Open Forum
None.

- Adjournment
The Council of the City of San José adjourned at 8:55 p.m.

7 JOINT REDEVELOPMENT AGENCY/COUNCIL

The Council of the City of San José convened at 4:27 p.m. to hear Item 7.1 in a Joint Session with the Redevelopment Agency.

7.1 Actions related to parking priorities and parking fund capacity.

Recommendation: City Council and Redevelopment Agency Actions:

- (a) Approval of shorter and longer-term priorities for implementation of Downtown Parking projects; and,
- (b) Direction for the City Manager and Executive Director to report back to the City Council and Agency Board during development of the FY 2004-05 Budget, recommending more specific project implementation timeframes for both the shorter-term and longer-term priorities based upon relevant economic and parking demand triggers and efficient financing methods; and,

Approved.

The following revisions were approved, in order of priority:

- (1) **Parking Plus at the Second Street and Santa Clara site (construction to begin February 2004).**
- (2) **Parking Plus at the Block 3 site.**
- (3) **Site acquisition of the Notre Dame location for future parking facility development.**
- (4) **Construction of the Notre Dame Parking Garage.**
- (5) **Site acquisition of the Greyhound location for future parking facility development.**
- (6) **Construction of the Greyhound Parking Garage.**
- (c) Adoption of a resolution authorizing the Executive Director to negotiate and execute an amendment to the Development and Disposition Agreement with the CIM Group, directing the CIM Group to proceed with the Parking Plus design for Block 3, with the Redevelopment Agency reimbursing third party design costs associated with the removal of Parking Plus in the event that the Redevelopment Agency should elect, no later than September 1, 2004, not to proceed to fund Parking Plus on that site, and other minor technical adjustments

[MERGED]

Resolution No. 71798 adopted.

Staff directed to contact property owners immediately regarding the City Council/Redevelopment Agency Board action today.